

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

CLAUDE N. LEWIS,

Plaintiff,

v.

**AMERICAN SUGAR REFINING, INC. and
MEHANDRA RAMPHAL,**

Defendants.

**Index No. 14-cv-02302 (CRK)
ECF Case**

PRETRIAL ORDER

The court held a pretrial conference in this action on Monday, March 19, 2018, during which the court discussed with counsel their objections to the trial exhibits and opposing counsel's responses to those objections. See Proposed Joint Pretrial Order at 23–36, Nov. 7, 2017, ECF No. 94; Supplemental Responses to Proposed Joint Pretrial Order, Jan. 29, 2018, ECF No. 114.

For one set of objections, the court directed the Plaintiff to explain how it planned to authenticate exhibits PX-1, PX-2, PX-3, PX-4, PX-5, PX-7, PX-21, and PX-22 (“the Contested Exhibits”), which are all documents which Plaintiff claims are Plaintiff's grievances sent to, and received by, the Defendant American Sugar Refining, Inc. (“ASR”). See Court's Letter, Mar. 19, 2018, ECF No. 130; Pl.'s Letter, Mar. 22, 2018, ECF No. 138 (“Pl.'s Letter”); Defs.' Letter, Mar. 22, 2018, ECF No. 139 (“Defs.' Letter”). Defendants challenge the authentication of these documents on the grounds that Defendants have no record of receiving them prior to discovery in this action. Defs.' Letter at 1. Pursuant to Rule 901 of the Federal Rules of Evidence, “the requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims.”

FED. R. EVID. 901. The contested exhibits are grievances purportedly prepared by the Plaintiff complaining of the treatment he received at work. In this context, a grievance is more than memorialization of a complaint; it is a memorialization of a complaint that is presented to the company. See JX-7 (2011 Collective Bargaining Agreement) at ASR 000018–20 (Article 9, “Grievance Procedure,” providing that “[a]ll grievances relating to the application or interpretation of [the Collective Bargaining] Agreement must be presented to [ASR] within ten (10) days after being brought to the union’s attention”; “[i]t is the agreed policy of [ASR] and the Union to settle promptly all such grievances in an amicable manner. . .”); JX-8 (2005 Collective Bargaining Agreement) at P00020–21 (Article 9, same); see also Grievance, Merriam-Webster.com, <https://www.merriam-webster.com/dictionary/grievance> (last visited Mar. 25, 2018) (Grievance: 3: “the formal expression of a grievance: complaint.”). Therefore, Plaintiff must offer evidence sufficient to show that these complaints were sent to the Defendant in a manner reasonably designed to be received by the Defendant.

Plaintiff states that, in order to authenticate the contested exhibits, Plaintiff will testify “that each Contested Exhibit represents his own grievance or complaint regarding his treatment while employed at Defendant ASR, that he took additional steps to submit them, and maintained copies of each Contested Exhibit for his records.” Pl.’s Letter at 3. Defendant has pointed to deposition testimony indicating that Plaintiff will not be able to provide sufficient evidence to demonstrate that these exhibits were sent to Defendants, let alone received. Defs.’ Letter at 1–2. Plaintiff states that “whether or not Defendant ASR received any of the Contested Exhibits is irrelevant to the issue of whether or not they can be authenticated,” and concedes that “receipt of the Contested Exhibits goes towards the exhibits’ relevance.” Pl.’s Letter at 3. The Plaintiff is correct. However the court is not prepared at this point to admit what might be irrelevant exhibits simply because

they can be authenticated. Therefore, the Contested Exhibits are inadmissible unless and until the Plaintiff can authenticate them as having been sent to the Defendant in a manner reasonably designed to be received by the Defendant or demonstrate their relevance regardless of whether they were sent to the Defendant.

The court now provides rulings on the admissibility of the exhibits at trial. Unless otherwise ordered by the court, whenever an admissible exhibit is first mentioned by counsel during the examination of a witness at trial, the exhibit shall be deemed to be admitted into evidence unless opposing counsel then asserts an objection to it. This Pretrial Order, including all attached schedules, will control the course of this action unless modified by subsequent order of the court. In accordance with the foregoing, it is

ORDERED that the Proposed Joint Pretrial Order (establishing the basis for jurisdiction, nature of the case, request for jury trial, stipulated facts, parties' contentions, issues and claims to be tried, schedule of joint exhibits, Plaintiff's schedule of exhibits, Defendants' schedule of exhibits, stipulations and objections to those exhibits, Plaintiff's witness list, Defendants' objections to Plaintiff's witnesses, Defendants' objections to Plaintiff's deposition testimony, Defendants' witness list, and relief sought), Nov. 7, 2017, ECF No. 94, attached to this order as Schedule A, is adopted in part. Plaintiff's witness list and proposed deposition testimony are modified by the court's decision on the parties' motions in limine, see Mem. and Order, March 26, 2018, and the parties' exhibit lists are modified by the below rulings in this order; and it is further

ORDERED that the exhibits set forth in attached Schedule B, which were not objected to in the Proposed Joint Pretrial Order, are admissible, subject to relevance and laying a proper foundation prior to introduction; and it is further

ORDERED that the exhibit set forth in attached Schedule C, the objection to which has been withdrawn, is admissible, subject to relevance and laying a proper foundation prior to introduction; and it is further

ORDERED that the exhibits set forth in attached Schedule D, for which the court overruled objections, are admissible, subject to relevance and laying a proper foundation prior to introduction; and it is further

ORDERED that the exhibits set forth in attached Schedule E, to which Defendants object on the basis of authentication, are inadmissible unless and until Plaintiff can authenticate them, and subject to relevance and laying a proper foundation prior to introduction; and it is further

ORDERED that the exhibits set forth in attached Schedule F are admissible for the limited purpose of demonstrating that an EEOC complaint was filed, subject to relevance and laying a proper foundation prior to introduction, and are not admissible for any other purpose; and it is further

ORDERED that the exhibits set forth in attached Schedule G are marked for identification only; and it is further

ORDERED that the exhibits set forth in attached Schedule H are inadmissible; and it is further

ORDERED that the exhibits set forth in attached Schedule I have been withdrawn.

/s/ Claire R. Kelly
Claire R. Kelly, Judge

Dated: March 26, 2018
New York, New York

SCHEDULE A

Proposed Joint Pretrial Order

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
CLAUDE LEWIS,

Plaintiff,

Civ. No.: 14-CV-2302 (CRK)(KNF)

- v. -

**PROPOSED
JOINT PRETRIAL ORDER**

**AMERICAN SUGAR REFINING, INC.,
and MEHANDRA RAMPHAL,**

Defendants.

-----X
The parties having conferred among themselves and with the Court pursuant to Federal Rule of Civil Procedure 16, the following statements, directions, and agreements are adopted as the Pretrial Order herein.

I. NATURE OF THE CASE

This is a civil matter in which Plaintiff, Claude Lewis (hereinafter “Plaintiff”), alleges the Defendants American Sugar Refining, Inc. (hereinafter “Defendant ASR”) and Mehandra Ramphal (hereinafter “Defendant Ramphal” and collectively with Defendant ASR hereinafter the “Defendants”) violated Plaintiff’s statutory rights as guaranteed by Title VII of the Civil Rights Act of 1964 (“Title VII”) and the New York State Human Rights Law (“SHRL”) by means of unlawful race and/or national origin discrimination and retaliation based upon Plaintiff’s alleged lawful complaints. Plaintiff notes that his previously asserted claims against Defendants pursuant to the New York City Human Rights Law have been withdrawn by stipulation. Plaintiff alleges that Defendants engaged in an ongoing pattern and practice of discrimination by way of, among other things, subjecting Plaintiff to a hostile work environment, constructively demoting Plaintiff, precluding Plaintiff from lucrative overtime opportunities, and retaliating against Plaintiff after he

complained to ASR's supervisory and human resources personnel about discrimination and harassment.

Defendants wholly deny the allegations of Plaintiff's Complaint, including any and all allegations that Defendants engaged in discrimination, harassment or retaliation against Plaintiff in violation of Title VII and/or SHRL. Defendants contend that they never discriminated, harassed or retaliated against Plaintiff. Defendants contend that Plaintiff voluntarily changed positions internally at ASR, and therefore, no adverse employment action was taken against Plaintiff. Defendants further submit that Plaintiff failed to avail himself of any of ASR's known policies or procedures for reporting harassment and/or discrimination, and never once made a complaint based on race or national origin. Lastly, Plaintiff's claims arising prior to May 2012 are barred by the statute of limitations. Defendants seek the dismissal of all claims with prejudice.

II. JURY/NON-JURY

Plaintiff requested a trial by jury in his pleadings and this case is to be tried before a jury. Plaintiff estimates 5-7 days of trial will be needed. Defendants estimate 7-9 days of trial will be needed.

III. STIPULATED FACTS¹²

A. The Parties

1. ASR produces refined and specialty sugar products in the United States through a process wherein raw sugar is received, unloaded, and processed into different finished products.
2. ASR has a facility located in Yonkers, New York.
3. The Yonkers, New York facility of ASR is comprised of the following departments: Process, Engineering/Maintenance, Quality Assurance/Technical, Warehouse/Shipping, Sanitation, and Human Resources.
4. Claude Lewis ("Plaintiff" or "Lewis") became first employed by ASR in 1988 as a temporary Sugar Stacker in Yonkers, New York.
5. Plaintiff held a number of different positions at ASR from 1998 to 2011, including Technician 2, Wash Station Operator, Relief Operator, Process Relief Operator, Remelt Operator, Warehouse, Sanitation, and Storeroom Assistant in the Engineering Department.
6. During the entire course of Lewis' employment, ASR was a union shop governed by collective bargaining agreements ("CBA").
7. At all times, Plaintiff was a member of the union.

B. The Collective Bargaining Agreement

8. The CBA governed seniority, shifts, overtime, grievances, wages, discipline, among other terms and conditions of employment.

¹ Defendants plan to file a motion in limine regarding Plaintiff's refusal to stipulate to certain facts that were already admitted by Plaintiff in Plaintiff's Counter-Statement of Material Facts. Plaintiff is taking the position that he is entitled to exclude stipulated facts in this section based on relevance. Defendants submit that relevance is not an issue in this section, rather this section provides for stipulated facts, which facts' relevance is to be determined later.

² Plaintiff plans to file a motion in limine regarding Defendants' insistence that certain of these facts be included in the "stipulated facts" section of this pretrial order, to wit, Sections B, D, E and F below. While these are true facts they are irrelevant and the factfinder should not be privy to these irrelevant facts. Plaintiffs' submit that relevance is an issue in this section.

9. Generally, pursuant to the discipline provisions of the CBA, an employee is given a verbal warning for the first offense, a written warning for the second offense, a three-day suspension for the third offense, and a five-day suspension for the fourth offense.
10. After one five-day suspension, ASR is within its rights to terminate the employee under the CBA.
11. Certain infractions such as a “no-call/no-show” or a safety breach result in discipline in the form of an automatic suspension.
12. After fifteen (15) months, the disciplinary scale resets, and the employee starts from the beginning at the verbal warning stage.

C. Timeline of Plaintiff’s Employment

13. On June 27, 2011, Plaintiff voluntarily requested a “bid out” (a bid out equates to a voluntary transfer to an open job based on seniority pursuant to the CBA) from a Process Relief Operator to a Remelt Operator (also known as a “Centrifugal Operator”).
14. On October 18, 2012, Plaintiff submitted a job change application voluntarily requesting a change from the Remelt Operator position to a position in the Warehouse Department loading trucks.
15. Plaintiff made no claims on this application or otherwise of discrimination, harassment or hostile work environment.
16. Ramphal never issued Plaintiff a disciplinary notice during the time he supervised him from June 30, 2011 to November 29, 2012.
17. On November 29, 2012, ASR granted Plaintiff’s request and transferred him to the Warehouse Department, which transfer was effective April 15, 2013.
18. Plaintiff’s new supervisor in the Warehouse Department was Jeff Bogdan.

19. Plaintiff was employed in the Sanitation Department from December 10, 2013 to March 16, 2016.
20. On March 14, 2016, Plaintiff requested to “bid out” of the Sanitation Department and into the Storeroom
21. On March 16, 2016, ASR granted Plaintiff’s request, and he has worked in the Storeroom from that date to the present.

D. ASR Policies and Procedures

22. ASR maintains an Employee Handbook (“ASR Employee Handbook”), which contains ASR’s general work rules and policies.
23. Plaintiff received the ASR Employee Handbook, and signed the form acknowledging that he received a copy, read, and understood it.
24. ASR’s Employee Handbook has an anti-discrimination provision and an anti-harassment provision.
25. Plaintiff was aware that ASR had a policy and procedure in place, as well as a Code of Conduct, to prevent discrimination and harassment.
26. Plaintiff acknowledged ASR’s Code of Ethics and Business Conduct on February 26, 2010 and February 1, 2013.
27. Plaintiff acknowledged that he had received and read ASR’s Code of Ethics and Business Conduct.
28. ASR’s Code of Ethics and Business Conduct has an anti-discrimination provision and an anti-harassment provision.
29. Local 74 permits the filing of grievances for perceived race discrimination, harassment or retaliation.

30. Plaintiff filed an EEOC Charge on March 14, 2013.

E. Plaintiff's Disciplinary History

31. Plaintiff received a Notice of Violation of Rules on July 14, 1988 for "poor job performance" for leaving a valve open, resulting in a "large amount of sugar loss." Plaintiff was given a written warning as a consequence of this disciplinary notice.

32. Plaintiff received a Notice of Violation of Rules on August 18, 1990 for "poor job performance" for being off the job and in the cafeteria instead of performing his job duties. Plaintiff was given a verbal warning as a consequence of this disciplinary notice. The notice was written by Michael Marcano, who supervised Lewis at the time.

33. Plaintiff received a Notice of Violation of Rules on January 17, 1991 for "poor job performance" and "neglect of duty" causing the furnace to shut down. Plaintiff was given a written warning as a consequence of this disciplinary notice. The notice was written by Supervisor Michael Marcano.

34. Plaintiff received a Notice of Violation of Rules on September 23, 1994 for a "no call, no show" for failing to show up for a shift and failing to notify any supervisors or superiors at ASR. Plaintiff was given a verbal warning as a consequence of this disciplinary notice. The notice was written by Supervisor/Foreman James Wallace.

35. Plaintiff received a Notice of Violation of Rules on August 1, 1997 for "insubordination" for calling in sick after his Supervisor, James Wallace, told him he could not have the day off. Plaintiff was given a verbal warning as a consequence of this disciplinary notice.

36. Plaintiff received a disciplinary letter on August 19, 1997 for "disappearing" for over an hour; then, after he was found, disappearing again for another hour. Plaintiff was suspended

from the rest of his shift as a consequence of this letter. This letter was written to then head of HR, Don Brainard.

37. Lewis received a Notice of Violation of Rules on January 13, 1998 for “sleeping on the job.” Plaintiff was given a written warning as a consequence of this disciplinary notice. The disciplinary notice was written by Foreman Joe Gerrardi.

38. Lewis received a Notice of Violation of Rules on April 2, 2002 for “poor job performance” for failing to close a sugar valve, resulting in out of specification product. Plaintiff was given a verbal warning as a consequence of this disciplinary notice. The disciplinary notice was written by Foreman/Supervisor James Wallace.

39. Plaintiff received a Notice of Violation of Rules on October 28, 2005 for “poor job performance” for “lack of action resulting in [the] reprocessing of 250,000 pounds of sugar and six hours of downtime” — costing ASR \$130,000. Plaintiff was given a five-day suspension as a consequence of this disciplinary notice. The disciplinary notice was written by Foreman/Supervisor Dominick Tursi.

40. Plaintiff received a Notice of Violation of Rules on June 29, 2012 for “poor job performance” for failing to follow a direct order from a supervisor. Plaintiff was given a verbal warning as a consequence of this disciplinary notice. The disciplinary notice was written by Superintendents Joe Fornabio and Elizabeth Mendonca.

41. Plaintiff received a Notice of Violation of Rules on January 3, 2013 for a “no call/no show.” Plaintiff was given a three-day suspension as a consequence of this disciplinary notice. The disciplinary notice was written by Superintendent Elizabeth Mendonca.

42. Plaintiff received a Notice of Violation of Rules on October 14, 2013 for loading “two pallets of wrong product on a truck.” As a result, the customer “rejected and returned” the

product. Plaintiff was given a five-day suspension as a consequence of this disciplinary notice.

43. Supervisors at ASR are permitted to adjust the settings on machines to ensure the product is according to specification.

F. Plaintiff's Grievance History

44. Plaintiff was aware of the CBA's grievance procedure and availed himself of the union's grievance process throughout his tenure at ASR.

45. Plaintiff submitted a grievance on December 22, 2008.

46. Plaintiff submitted a grievance on March 16, 2013

47. Plaintiff submitted a grievance on March 17, 2013.

48. Plaintiff submitted a grievance on February 24, 2016.

IV. PARTIES' CONTENTIONS

The pleadings are deemed to embrace the following, and only the following contentions of the parties:

Plaintiff's Contentions: Plaintiff's allegations and contentions in this matter are as follows:

1. Defendants engaged in discriminatory and disparate treatment in violation of Title VII and the SHRL by virtue of their failure to offer Plaintiff overtime opportunities on the basis of his race and/or national origin.

a. Witnesses: Claude Lewis, Mehandra Ramphal, Deborah Lafaro, Robert Jandovich, Fred Gaffney, Fred Pannicia, Adolph McBean, Elizabeth Mendonca.

b. Exhibits: JX-7 (Collective Bargaining Agreement 2011); JX-8 (Collective Bargaining Agreement 2005); JX-9 (ASR Employee Handbook); JX-10 (Code of Ethics and Business Conduct); JX-2 - JX-6, JX-14, JX-23, JX-25, PX-11 (Notices

of Violations; Disciplinary Notices); JX-1, JX-12, JX-13, JX-20, JX-23, JX-26, PX-1-PX-5, PX-7, PX-8, PX-10, PX-20 - PX-22 (Grievances and Responses); JX-24, PX-9, PX-16, PX-19 (EEOC Submissions); PX-14 (Fred Gaffney Declaration); PX-32 (Fred Panniccia Affidavit).

2. Defendants engaged in discriminatory and disparate treatment in violation of Title VII and the SHRL by virtue of constructively demoting Plaintiff to a lower-paying position on the basis of his race and/or national origin.

- a. Witnesses: Claude Lewis, Mehandra Ramphal, Deborah Lafaro, Robert Jandovich, Fred Gaffney, Fred Panniccia, Adolph McBean, Elizabeth Mendonca.
- b. Exhibits: JX-7 (Collective Bargaining Agreement 2011); JX-8 (Collective Bargaining Agreement 2005); JX-9 (ASR Employee Handbook); JX-10 (Code of Ethics and Business Conduct); JX-2 - JX-6, JX-14, JX-23, JX-25, PX-11 (Notices of Violations; Disciplinary Notices); JX-1, JX-12, JX-13, JX-20, JX-23, JX-26, PX-1-PX-5, PX-7, PX-8, PX-10, PX-20 - PX-22 (Grievances and Responses); JX-24, PX-9, PX-16, PX-19 (EEOC Submissions); PX-14 (Fred Gaffney Declaration); PX-32 (Fred Panniccia Affidavit).

3. Defendants engaged in discriminatory and disparate treatment in violation of Title VII and the SHRL by virtue of subjecting Plaintiff to disparate and unequal treatment and discipline as compared to his non-African American co-workers on the basis of his race and/or national origin.

- a. Witnesses: Claude Lewis, Mehandra Ramphal, Deborah Lafaro, Robert Jandovich, Fred Gaffney, Fred Panniccia, Adolph McBean, Elizabeth Mendonca, Lucious Green, Bobsy Monroe, Darius Schullere, Joseph Fornabio.

- b. Exhibits: JX-7 (Collective Bargaining Agreement 2011); JX-8 (Collective Bargaining Agreement 2005); JX-9 (ASR Employee Handbook); JX-10 (Code of Ethics and Business Conduct); JX-2 - JX-6, JX-14, JX-23, JX-25, PX-11 (Notices of Violations; Disciplinary Notices); JX-1, JX-12, JX-13, JX-20, JX-23, JX-26, PX-1-PX-5, PX-7, PX-8, PX-10, PX-20 - PX-22 (Grievances and Responses); JX-24, PX-9, PX-16, PX-19 (EEOC Submissions); PX-14 (Fred Gaffney Declaration); PX-32 (Fred Panniccia Affidavit); JX-18 – JX-19, JX-28 – JX-32 (Notice of Job Change).
- 4. Defendants engaged in discriminatory and disparate treatment in violation of Title VII and the SHRL by virtue of their failure to offer Plaintiff overtime opportunities on the basis of his race and/or national origin.
 - a. Witnesses: Claude Lewis, Mehandra Ramphal, Deborah Lafaro, Robert Jandovich, Fred Gaffney, Fred Pannicia, Adolph McBean, Elizabeth Mendonca.
 - b. Exhibits: JX-7 (Collective Bargaining Agreement 2011); JX-8 (Collective Bargaining Agreement 2005); JX-9 (ASR Employee Handbook); JX-10 (Code of Ethics and Business Conduct); JX-2 - JX-6, JX-14, JX-23, JX-25, PX-11 (Notices of Violations; Disciplinary Notices); JX-1, JX-12, JX-13, JX-20, JX-23, JX-26, PX-1-PX-5, PX-7, PX-8, PX-10, PX-20 - PX-22 (Grievances and Responses); JX-24, PX-9, PX-16, PX-19 (EEOC Submissions); PX-14 (Fred Gaffney Declaration); PX-32 (Fred Panniccia Affidavit); JX-18 – JX-19, JX-28 – JX-32 (Notice of Job Change).

5. Defendants subjected Plaintiff to a hostile work environment on the basis of his race and/or national origin that was severe or pervasive enough to alter the terms and conditions of his employment for the worse in violation of Title VII and the SHRL.
 - a. Witnesses: Claude Lewis, Mehandra Ramphal, Deborah Lafaro, Robert Jandovich, Fred Gaffney, Fred Pannicia, Adolph McBean, Elizabeth Mendonca, Lucious Green, Bobsy Monroe, Darius Schullere, Joseph Fornabio.
 - b. Exhibits: JX-7 (Collective Bargaining Agreement 2011); JX-8 (Collective Bargaining Agreement 2005); JX-9 (ASR Employee Handbook); JX-10 (Code of Ethics and Business Conduct); JX-2 - JX-6, JX-14, JX-23, JX-25, PX-11 (Notices of Violations; Disciplinary Notices); JX-1, JX-12, JX-13, JX-20, JX-23, JX-26, PX-1-PX-5, PX-7, PX-8, PX-10, PX-20 - PX-22 (Grievances and Responses); JX-24, PX-9, PX-16, PX019 (EEOC Submissions); PX-14 (Fred Gaffney Declaration); PX-32 (Fred Panniccia Affidavit); JX-18 – JX-19, JX-28 – JX-32 (Notice of Job Change).
6. Plaintiff was subjected to numerous adverse employment actions.
 - a. Witnesses: Claude Lewis, Mehandra Ramphal, Deborah Lafaro, Robert Jandovich, Fred Gaffney, Fred Pannicia, Adolph McBean, Elizabeth Mendonca, Lucious Green, Bobsy Monroe, Darius Schullere, Joseph Fornabio.
 - b. Exhibits: JX-7 (Collective Bargaining Agreement 2011); JX-8 (Collective Bargaining Agreement 2005); JX-9 (ASR Employee Handbook); JX-10 (Code of Ethics and Business Conduct); JX-2 - JX-6, JX-14, JX-23, JX-25, PX-11 (Notices of Violations; Disciplinary Notices); JX-1, JX-12, JX-13, JX-20, JX-23, JX-26, PX-1-PX-5, PX-7, PX-8, PX-10, PX-20 - PX-22 (Grievances and Responses); JX-

24, PX-9, PX-16, PX-19 (EEOC Submissions); PX-14 (Fred Gaffney Declaration); PX-32 (Fred Panniccia Affidavit); JX-18 – JX-19, JX-28 – JX-32 (Notice of Job Change).

7. Plaintiff was improperly precluded from overtime opportunities on the basis of his race and/or national origin, and complaints of discrimination.

- a. Witnesses: Claude Lewis, Mehandra Ramphal, Deborah Lafaro, Robert Jandovich, Fred Gaffney, Fred Panniccia, Adolph McBean, Elizabeth Mendonca.
- b. Exhibits: JX-7 (Collective Bargaining Agreement 2011); JX-8 (Collective Bargaining Agreement 2005); JX-9 (ASR Employee Handbook); JX-10 (Code of Ethics and Business Conduct); JX-1, JX-12, JX-13, JX-20, JX-23, JX-26, PX-1-PX-5, PX-7, PX-8, PX-10, PX-20 - PX-22 (Grievances and Responses); JX-24, PX-9, PX-16, PX-19 (EEOC Submissions); PX-14 (Fred Gaffney Declaration); PX-32 (Fred Panniccia Affidavit).

8. Plaintiff reported the harassment and discrimination to his supervisors, his union, and Defendant ASR's Human Resources Department.

- a. Witnesses: Claude Lewis, Mehandra Ramphal, Deborah Lafaro, Robert Jandovich, Fred Gaffney, Fred Panniccia, Adolph McBean, Elizabeth Mendonca.
- b. Exhibits: JX-7 (Collective Bargaining Agreement 2011); JX-8 (Collective Bargaining Agreement 2005); JX-9 (ASR Employee Handbook); JX-10 (Code of Ethics and Business Conduct); JX-1, JX-12, JX-13, JX-20, JX-23, JX-26, PX-1-PX-5, PX-7, PX-8, PX-10, PX-20 - PX-22 (Grievances and Responses); JX-24, PX-9, PX-16, PX-19 (EEOC Submissions); PX-14 (Fred Gaffney Declaration); PX-32 (Fred Panniccia Affidavit).

9. Defendants ignored or otherwise rejected Plaintiff's complaints of discrimination and harassment.

- a. Witnesses: Claude Lewis, Mehandra Ramphal, Deborah Lafaro, Robert Jandovich, Fred Gaffney, Fred Pannicia, Adolph McBean, Elizabeth Mendonca.
- b. Exhibits: JX-7 (Collective Bargaining Agreement 2011); JX-8 (Collective Bargaining Agreement 2005); JX-9 (ASR Employee Handbook); JX-10 (Code of Ethics and Business Conduct); JX-1, JX-12, JX-13, JX-20, JX-23, JX-26, PX-1-PX-5, PX-7, PX-8, PX-10, PX-20 - PX-22 (Grievances and Responses); JX-24, PX-9, PX-16, PX-19 (EEOC Submissions); PX-14 (Fred Gaffney Declaration); PX-32 (Fred Pannicia Affidavit).

10. Defendants retaliated against Plaintiff for his lawful complaints of discrimination to his supervisor(s), union, and ASR's Human Resources Department.

- a. Witnesses: Claude Lewis, Mehandra Ramphal, Deborah Lafaro, Robert Jandovich, Fred Gaffney, Fred Pannicia, Adolph McBean, Elizabeth Mendonca.
- b. Exhibits: JX-7 (Collective Bargaining Agreement 2011); JX-8 (Collective Bargaining Agreement 2005); JX-9 (ASR Employee Handbook); JX-10 (Code of Ethics and Business Conduct); JX-1, JX-12, JX-13, JX-20, JX-23, JX-26, PX-1-PX-5, PX-7, PX-8, PX-10, PX-20 - PX-22 (Grievances and Responses); JX-2 - JX-6, JX-14, JX-23, JX-25, PX-11 (Notices of Violations; Disciplinary Notices); JX-24, PX-9, PX-16, PX-19 (EEOC Submissions); PX-14 (Fred Gaffney Declaration); PX-32 (Fred Pannicia Affidavit); JX-18 - JX-19, JX-28 - JX-32 (Notice of Job Change and Employee Status Notices).

Defendants' Contentions:

1. Defendants did not engage in discriminatory and/or disparate treatment on the basis of race and/or national origin in violation of Title VII and the SHRL.
 - a. Witnesses: Claude Lewis, Bobsie Monroe, Elizabeth Mendonca, Debbie Troche, Bob Jandovitz, Adolph McBean, Ray Grossi, Sean Norwood, Kevin Parnell, and Mehandra Ramphal
 - b. Exhibits: JX-9 (ASR Employee Handbook), JX-7-JX-8 (Collective Bargaining Agreement), JX-10 (Code of Ethics and Business Conduct), JX-2 - JX-6; JX-14; JX-25; DX- 4-11; DX-64 (Notices of Violation, Disciplinary Notices), JX-12-JX-13; JX-20; JX-26; DX-12-DX-29; DX-66-DX-67 (Grievances and Responses), DX-39 – DX-49 (Loading Error Documents)
2. Defendants' actions were a legitimate exercise of reasonable business judgment.
 - a. Witnesses: Bob Jandovitz, Debbie Troche, Elizabeth Mendonca, and Mehandra Ramphal
 - b. Exhibits: JX-9 (ASR Employee Handbook), JX-7 (Collective Bargaining Agreement), JX-10 (Code of Ethics and Business Conduct), JX-2 - JX-6; JX-14; JX-25; DX- 4-11; DX-64 (Notices of Violation, Disciplinary Notices), JX-12-JX-13; JX-20; JX-26; DX-12-DX-29; DX-66-DX-67 (Grievances and Responses), DX-39 – DX-49 (Loading Error Documents)
3. Plaintiff did not suffer any adverse employment action.
 - a. Witnesses: Claude Lewis, Mehandra Ramphal, Elizabeth Mendonca, Debbie Troche, and Bob Jandovitz

- b. Exhibits: JX-9 (ASR Employee Handbook), JX-7 (Collective Bargaining Agreement), JX-10 (Code of Ethics and Business Conduct), JX-2 - JX-6; JX-14; JX-25; DX- 4-11; DX-64 (Notices of Violation, Disciplinary Notices), JX-12-JX-13; JX-20; JX-26; DX-12-DX-29; DX-66-DX-67 (Grievances and Responses), DX-39 – DX-49 (Loading Error Documents)
4. Plaintiff was offered overtime opportunities pursuant to a CBA and seniority and was never discriminated against in terms of the assignment of overtime.
 - a. Witnesses: Mehandra Ramphal, Elizabeth Mendonca, Debbie Troche, Bob Jandovitz
 - b. Exhibits: JX-7 (Collective Bargaining Agreement), JX-12-JX-13; JX-20; JX-26; DX-12-DX-29; DX-66-DX-67 (Grievances and Responses)
5. Plaintiff was subjected to proper discipline pursuant to the Employee Handbook and/or the Collective Bargaining Agreement when he violated ASR's rules.
 - a. Witnesses: Elizabeth Mendonca, Debbie Troche and Bob Jandovitz
 - b. Exhibits: JX-9 (ASR Employee Handbook), JX-7 (Collective Bargaining Agreement), JX-10 (Code of Ethics and Business Conduct), JX-2 - JX-6; JX-14; JX-25; DX- 4-11; DX-64 (Notices of Violation, Disciplinary Notices), JX-12-JX-13; JX-20; JX-26; DX-12-DX-29; DX-66-DX-67 (Grievances and Responses), DX-39 – DX-49 (Loading Error Documents)
6. Plaintiff was never subjected to a hostile work environment on the basis of his race and/or national origin.

- a. Witnesses: Claude Lewis, Bobsie Monroe, Elizabeth Mendonca, Debbie Troche, Bob Jandovitz, Adolph McBean, Ray Grossi, Sean Norwood, Kevin Parnell and Mehandra Ramphal
 - b. Exhibits: JX-9 (ASR Employee Handbook), JX-7 (Collective Bargaining Agreement), JX-10 (Code of Ethics and Business Conduct), JX-2 - JX-6; JX-14; JX-25; DX- 4-11; DX-64 (Notices of Violation, Disciplinary Notices), JX-12-JX-13; JX-20; JX-26; DX-12-DX-29; DX-66-DX-67 (Grievances and Responses), DX-39 – DX-49 (Loading Error Documents)
7. Plaintiff was not subject to severe or pervasive actions on the behalf of the Defendants which altered Plaintiff's conditions of employment and/or created an abusive work environment.
 - a. Witnesses: Bobsie Monroe, Elizabeth Mendonca, Debbie Troche, Adolph McBean, Ray Grossi, Sean Norwood, Kevin Parnell and Mehandra Ramphal
 - b. Exhibits: JX-9 (ASR Employee Handbook), JX-7 (Collective Bargaining Agreement), JX-10 (Code of Ethics and Business Conduct), JX-2 - JX-6; JX-14; JX-25; DX- 4-11; DX-64 (Notices of Violation, Disciplinary Notices), JX-12-JX-13; JX-20; JX-26; DX-12-DX-29; DX-66-DX-67 (Grievances and Responses), DX-39 – DX-49 (Loading Error Documents)
8. Plaintiff was not subject to adverse employment actions which altered the terms and/or conditions of Plaintiff's employment.
 - a. Witnesses: Claude Lewis, Bobsie Monroe, Elizabeth Mendonca, Debbie Troche, Bob Jandovitz, Adolph McBean, Ray Grossi, Sean Norwood, Kevin Parnell, and Mehandra Ramphal

- b. Exhibits: JX-9 (ASR Employee Handbook), JX-7 (Collective Bargaining Agreement), JX-10 (Code of Ethics and Business Conduct), JX-2 - JX-6; JX-14; JX-25; DX- 4-11; DX-64 (Notices of Violation, Disciplinary Notices), JX-12-JX-13; JX-20; JX-26; DX-12-DX-29; DX-66-DX-67 (Grievances and Responses), DX-39 – DX-49 (Loading Error Documents), JX-17 (October 18, 2012 Job Change Application)
9. Plaintiff failed to report and/or make any complaints regarding perceived race and/or national origin discrimination.
 - a. Witnesses: Bob Jandovitz, Debbie Troche, Elizabeth Mendonca and Mehandra Ramphal
 - b. Exhibits: JX-9 (ASR Employee Handbook), JX-7 (Collective Bargaining Agreement), JX-10 (Code of Ethics and Business Conduct), JX-12-JX-13; JX-20; JX-26; DX-12-DX-29; DX-66-DX-67 (Grievances and Responses)
10. Defendants had no notice or knowledge of Plaintiff's perceived complaints regarding perceived race and/or national origin discrimination.
 - a. Witnesses: Bob Jandovitz, Debbie Troche, Elizabeth Mendonca and Mehandra Ramphal
 - b. Exhibits: JX-9 (ASR Employee Handbook), JX-7 (Collective Bargaining Agreement), JX-10 (Code of Ethics and Business Conduct), JX-12-JX-13; JX-20; JX-26; DX-12-DX-29; DX-66-DX-67 (Grievances and Responses)
11. ASR did not retaliate against Plaintiff in any way, shape or form.
 - a. Witnesses: Claude Lewis, Bob Jandovitz, Debbie Troche, Elizabeth Mendonca and Mehandra Ramphal

- b. Exhibits: JX-2 - JX-6; JX-14; JX-25; DX- 4-11; DX-64 (Notices of Violation, Disciplinary Notices), JX-12-JX-13; JX-20; JX-26; DX-12-DX-29; DX-66-DX-67 (Grievances and Responses), DX-39 – DX-49 (Loading Error Documents)
- 12. Defendants’ followed and enforced their anti-discrimination and anti-harassment policies and procedures at all times.
 - a. Witnesses: Bob Jandovitz, Debbie Troche and Elizabeth Mendonca
 - b. Exhibits: JX-9 (ASR Employee Handbook), JX-7 (Collective Bargaining Agreement), JX-10 (Code of Ethics and Business Conduct)
- 13. Plaintiff’s claims concerning acts that occurred prior to May 2012 are barred by the statute of limitations.
 - a. Witnesses: Claude Lewis
 - b. Exhibits: DX-1 (Plaintiff’s Complaint)
- 14. Plaintiff is not entitled to punitive damages.
 - a. Witnesses: Claude Lewis, Bobsie Monroe, Elizabeth Mendonca, Debbie Troche, Bob Jandovitz, Adolph McBean, Ray Grossi, Sean Norwood, Kevin Parnell, and Mehandra Ramphal
 - b. Exhibits: JX-9 (ASR Employee Handbook), JX-7 (Collective Bargaining Agreement), JX-10 (Code of Ethics and Business Conduct), JX-2 - JX-6; JX-14; JX-25; DX- 4-11; DX-68 (Notices of Violation, Disciplinary Notices), JX-12-JX-13; JX-20; DX-12-DX-29; DX-70-DX-71 (Grievances and Responses), DX-39 – DX-49 (Loading Error Documents)
- 15. Defendants acted with good faith in attempting to comply with applicable employment discrimination and other laws.

- a. Witnesses: Claude Lewis, Bobsie Monroe, Elizabeth Mendonca, Debbie Troche, Bob Jandovitz, Adolph McBean, Ray Grossi, Sean Norwood, Kevin Parnell, and Mehandra Ramphal
- b. Exhibits: JX-9 (ASR Employee Handbook), JX-7 (Collective Bargaining Agreement), JX-10 (Code of Ethics and Business Conduct), JX-2 - JX-6; JX-14; JX-25; DX- 4-11; DX-68 (Notices of Violation, Disciplinary Notices), JX-12-JX-13; JX-20; DX-12-DX-29; DX-70-DX-71 (Grievances and Responses), DX-39 – DX-49 (Loading Error Documents)

V. ISSUES AND CLAIMS TO BE TRIED

The parties contend the following issues and claims are to be tried:

1. Whether Defendants subjected Plaintiff to discriminatory and disparate treatment on the basis of his race and/or national origin in violation of Title VII and the SHRL?
2. Whether Plaintiff incurred any adverse employment action?
3. Whether Defendants subjected Plaintiff to a hostile work environment on the basis of his race and/or national origin in violation of Title VII and the SHRL?
4. Whether Defendants have a legitimate, non-discriminatory, business reason for their actions?
5. Whether Defendants retaliated against Plaintiff on the basis of his alleged complaints of discrimination in violation of Title VII and the SHRL?
6. Whether Plaintiff reported any perceived claims of discrimination, harassment and/or retaliation?

7. Whether Plaintiff was subject to severe or pervasive actions on the behalf of the Defendants which altered Plaintiff's conditions of employment and/or created an abusive work environment?
8. Whether Plaintiff's claims are barred by the applicable statute of limitations?

VI. SCHEDULE OF JOINT EXHIBITS

Trial Exhibit No	Document Date	Description	Bates Number/ Dep. Exhibit Reference
JX-1	July 18, 1997	Memorandum from Robert Jandovitz Regarding Meeting with Claude Lewis	ASR000149 Lewis 3
JX -2	June 29, 2012	Notice of Violation of Rules	ASR000090 Lewis 5
JX -3	January 3, 2013	Disciplinary Notice	ASR000089 Lewis 5
JX -4	March 6, 2013	Disciplinary Notice	ASR000088 Lewis 5
JX -5	October 14, 2013	Disciplinary Notice	ASR000087 Lewis 5
JX -6	August 18, 1990	Notices of Violation of Rules	ASR000163, Lewis 5
JX -7	January 1, 2011	Collective Bargaining Agreement	ASR000001-000030 Lewis 6
JX -8	June 24, 2005	Collective Bargaining Agreement	P00009-P00035

Trial Exhibit No	Document Date	Description	Bates Number/ Dep. Exhibit Reference
JX -9	Undated	ASR Employee Handbook	ASR000052-000068 Lewis 11
JX -10	October 1, 2012	ASR Code of Ethics and Business Conduct	ASR000031-000051 Lewis 8
JX -11	Undated	ASR Plant Rules	ASR000085-000086
JX-12	March 17, 2013	Grievance	ASR000183 Lewis 12
JX -13	March 16, 2013	Grievance	ASR000184 Lewis 12
JX -14	January 5, 2016	Disciplinary Notice	P00040 Lewis 14
JX -15	Undated	Resume of Rhea Parsons	Parson 3
JX -16	Undated	CV of Karen Dahlman	N/A
JX -17	October 18, 2012	Job Change Application	ASR000098
JX -18	April 15, 2013	Employee Status Notice	ASR000100
JX -19	December 10, 2013	Employee Status Notice	ASR000099

Trial Exhibit No	Document Date	Description	Bates Number/ Dep. Exhibit Reference
JX -20	May 11, 2009	Memorandum from Robert Jandovitz regarding Grievance #01-09	P00003, Lewis 7
JX -21	February 26, 2010	Acknowledgement form for the ASR Code of Ethics and Business Conduct	ASR000104 Lewis 9
JX -22	February 1, 2013	Acknowledgement form for the ASR Code of Ethics and Business Conduct	ASR000084 Lewis 10
JX-23	March 3, 2016	Disciplinary Notice	ASR000227
JX-24	March 14, 2013	EEOC Intake Questionnaire	ASR000219- ASR000222
JX-25	Undated	Last Chance Agreement	ASR000224
JX-26	February 24, 2016	Grievance	ASR000228- ASR000229
JX-27	January 22, 2014	Charge of Discrimination	ASR000214

Trial Exhibit No	Document Date	Description	Bates Number/ Dep. Exhibit Reference
JX-28	March 16, 2016	Employee Status Notice	ASR000230 MSJ Pl. Ex. 38
JX-29	November 28, 2011	Employee Status Notice	ASR000106
JX-30	November 18, 2010	Employee Status Notice	ASR000102
JX-31	June 27, 2011	Employee Status Notice	ASR000101
JX-32	December 10, 2013	Employee Status Notice	ASR000099

VII. PLAINTIFF'S SCHEDULE OF EXHIBITS

Trial Exhibit No	Document Date	Description	Bates Number/ Dep. Exhibit Reference	Defendants' Stipulations and Objections
PX-1	December 22, 2008	Grievance	P00001-P00002 MSJ Pl. Ex. 11	Objection – authentication, foundation, and relevance
PX-2	February 4, 2014	Letter from Plaintiff	P00004-P00005 MSJ Pl. Ex. 28	Objection – authentication, foundation,

Trial Exhibit No	Document Date	Description	Bates Number/ Dep. Exhibit Reference	Defendants' Stipulations and Objections
				hearsay and relevance. Objection – the attachment does not correspond with the letter.
PX-3	March 22, 2014	Signed Statement	P00037 MSJ Pl. Ex. 30	Objection – authentication, foundation, hearsay and relevance.
PX-4	April 3, 2015	Grievance	P00006-P00008 MSJ Pl. Ex. 31	Objection – authentication, foundation, and relevance
PX-5	January 9, 2016	Grievance	P00041	Objection – authentication, foundation, and relevance
PX-6	Undated	Plaintiff's Medical Records	P00104-P00232	Objection – hearsay, authentication, and foundation
PX-7	July 12, 2016	Grievance	P00233 MSJ Pl. Ex. 14	Objection – authentication, foundation, hearsay and relevance
PX-8	February 7, 2014	Grievance Response	P00234	No Objection
PX-9	November 11, 2013	Fax	ASR000218	Objection – authentication, foundation, and hearsay
PX-10	December 3, 2013	Email from David Arm to Bob Jandovitz	ASR000223	Objection – relevance

Trial Exhibit No	Document Date	Description	Bates Number/ Dep. Exhibit Reference	Defendants' Stipulations and Objections
PX-11	February 4, 2016	Disciplinary Notice	ASR000225- ASR000226	Objection – foundation and authentication
PX-12	Undated	IME Report by Dr. Karen Dahlman		No Objection
PX-13	February 20, 2017	Plaintiff's Declaration	MSJ Pl. Ex. 1	Objection - hearsay
PX-14	February 20, 2017	Gaffney Declaration	MSJ Pl. Ex. 2	Objection - hearsay
PX-15	May 4, 2012	Grievance submitted by Rosanna Mayo-Coleman	MSJ Pl. Ex. 5	Objection – relevance and hearsay
PX-16	December 5, 2013	Plaintiff's EEOC Consent	ASR000217 MSJ Pl. Ex. 25	Objection – relevance
PX-17	February 4, 2014	Notice of Charge of Discrimination	ASR000213	Objection – foundation and relevance
PX-18	March 27, 2014	Pro Se Complaint	MSJ Pl. Ex. 32	Objection - hearsay

Trial Exhibit No	Document Date	Description	Bates Number/ Dep. Exhibit Reference	Defendants' Stipulations and Objections
PX-19	September 30, 2014	ASR FOIA Request and Response	ASR000203- ASR000222 MSJ Pl. Ex. 34	Objection – foundation, authentication, hearsay, and relevance
PX-20	December 2, 2016	Grievance	MSJ Pl. Ex. 39	Objection – foundation, authentication, not produced in discovery and appears to be an incomplete document
PX-21	January 9, 2016	Grievance	P00042 MSJ Pl. Ex. 40	Objection – foundation, authentication, and relevance
PX-22	January 9, 2016	Grievance	P00041 MSJ Pl. Ex. 41	Objection – foundation, authentication, and relevance
PX-23	September 30, 2014	Amended Complaint	MSJ Pl. Ex. 33	Objection - hearsay
PX-24		Defendants' Answer to Plaintiff's Amended Complaint		No Objection
PX-25		Defendants' Response to Plaintiff's First Set of Document Demands		No Objection.

Trial Exhibit No	Document Date	Description	Bates Number/ Dep. Exhibit Reference	Defendants' Stipulations and Objections
PX-26		Defendants' Response to Plaintiff's First Set of Interrogatories		No Objection
PX-27	July 10, 2015	Plaintiff's Answer's to Defendants' Interrogatories		Objection – hearsay
PX-28	March 14, 2016	Plaintiff's Supplemental Responses to Defendants' Interrogatories		Objection – hearsay
PX-29	May 5, 2015	Plaintiff's Initial Disclosures		Objection – hearsay
PX-30	July 10, 2015	Plaintiff's Response to Defendants' Notice to Produce		Objection – hearsay
PX-31	July 10, 2015	Plaintiff's Response to Defendants' Requests for Admissions		Objection - hearsay
PX-32	November 26, 2016	Affidavit of Fred Paniccia		Objection – hearsay and relevance. Objection – never identified in discovery.

Plaintiff includes by this reference all exhibits listed in Defendants exhibit list and reserves the right to offer said exhibits whether or not Defendants actually offer such exhibit at the time of trial. Plaintiff reserves the right to introduce documents not designated by either party for impeachment

and/or rebuttal purposes. Plaintiff also reserve the right to modify this exhibit list as appropriate following the Court's rulings on any motions *in limine*.

Defendants object to Plaintiff reserving the right to offer any exhibits on Defendants' exhibit list. The Federal Rules of Evidence permit a party to offer evidence in its case in chief, despite that evidence being impermissible in the opponent's case in chief. Therefore, just because an exhibit may be proper in Defendants' case, does not equate it to being proper in Plaintiff's case in chief.

VII. DEFENDANTS' SCHEDULE OF EXHIBITS

Trial Exhibit No	Document Date	Description	Bates Number/ Dep. Exhibit Reference	Plaintiff's Stipulations and Objections
DX-1	March 27, 2014	Complaint	Lewis 1	No Objection
DX-2	September 30, 2014	Amended Complaint	Lewis 2	No Objection
DX-3	February 27, 1996	Job Change Application	ASR000070, Lewis 4	Objection - Relevance, foundation and authentication
DX-4	July 12, 1988	Notices of Violation of Rules	ASR000170, Lewis 5	Objection - Relevance, foundation and authentication
DX-5	August 18, 1990	Notices of Violation of Rules	ASR000163, Lewis 5	Objection - Relevance, foundation and authentication
DX-6	January 17, 1991	Notices of Violation of Rules	ASR000164, Lewis 5	Objection - Relevance, foundation and authentication
DX-7	September 27, 1994	Notices of Violation of Rules	ASR000157, Lewis 5	Objection - Relevance, foundation and authentication
DX-8	August 1, 1997	Notices of Violation of Rules	ASR000153, Lewis 5	Objection - Relevance, foundation and authentication

Trial Exhibit No	Document Date	Description	Bates Number/ Dep. Exhibit Reference	Plaintiff's Stipulations and Objections
DX-9	January 13, 1998	Notices of Violation of Rules	ASR000152, Lewis 5	Objection - Relevance, foundation and authentication
DX-10	April 2, 2002	Notices of Violation of Rules	ASR000124, Lewis 5	Objection - Relevance, foundation and authentication
DX-11	October 28, 2005	Notices of Violation of Rules	ASR000091, Lewis 5	Objection - Relevance, foundation and authentication
DX-12	December 22, 2008	Grievance	P00002, Lewis 7	No Objection
DX-13	February 1, 1991	Grievance	ASR000074, Lewis 12	Objection - Relevance, foundation and authentication
DX-14	February 26, 1991	Grievance Denial	ASR000073, Lewis 12	Objection - Relevance, foundation and authentication
DX-15	October 23, 1991	Grievance	ASR000072, Lewis 12	Objection - Relevance, foundation and authentication
DX-16	November 13, 1991	Grievance Denial	ASR000071, Lewis 12	Objection - Relevance, foundation and authentication
DX-17	March 1, 2003	Grievance	ASR000123, Lewis 12	Objection - Relevance, foundation and authentication

Trial Exhibit No	Document Date	Description	Bates Number/ Dep. Exhibit Reference	Plaintiff's Stipulations and Objections
DX-18	April 7, 2003	Grievance Denial	ASR000122, Lewis 12	Objection - Relevance, foundation and authentication
DX-19	March 1, 2003	Grievance	ASR000121, Lewis 12	Objection - Relevance, foundation and authentication
DX-20	April 7, 2003	Grievance Denial	ASR000120, Lewis 12	Objection - Relevance, foundation and authentication
DX-21	June 5, 2003	Grievance Denial Sustained	ASR000119, Lewis 12	Objection - Relevance, foundation and authentication
DX-22	February 24 ,2004	Grievance and Approval	ASR000116	Objection - Relevance, foundation and authentication
DX-23	March 4, 2004	Grievance Approved	ASR000115, 117, Lewis 12	Objection - Relevance, foundation and authentication
DX-24	October 14, 2004	Grievance	ASR000187, Lewis 12	Objection - Relevance, foundation and authentication
DX-25	August 3, 2005	Grievance	ASR000113, Lewis 12	Objection - Relevance, foundation and authentication

Trial Exhibit No	Document Date	Description	Bates Number/ Dep. Exhibit Reference	Plaintiff's Stipulations and Objections
DX-26	August 10, 2005	Grievance Denial	ASR000112, Lewis 12	Objection – relevance, foundation and authentication
DX-27	December 5, 2005	Grievance	ASR000111, Lewis 12	Objection – relevance, foundation and authentication
DX-28	February 10, 2006	Grievance Denial	ASR000110, Lewis 12	Objection – relevance, foundation and authentication
DX-29	February 16, 2006 and August 23, 2006	Union appeal of grievance and amendment of decision	ASR000109, ASR000108, Lewis 12	Objection – relevance, foundation and authentication
DX-30	October 21, 2014 – October 30, 2016	Medical Records	00104-00232, Parson 2	No objection.
DX-31	September 26 and 28, 2016	Report of Karen Dahlman regarding Independent Medical Evaluation of Claude Lewis	N/A	Objection – hearsay, foundation and authentication
DX-32	July 10, 2015	Plaintiff's Answers to Interrogatories	N/A	No objection.
DX-33	March 14, 2016	Plaintiff's Supplemental Responses to Interrogatories	N/A	No objection.

Trial Exhibit No	Document Date	Description	Bates Number/ Dep. Exhibit Reference	Plaintiff's Stipulations and Objections
DX-34	March 4, 2016	Plaintiff's (Counsel) March 4, 2016 email	N/A	Objection – relevance, foundation and authentication
DX-35	May 5, 2015	Plaintiff's Initial Disclosures	N/A	No objection.
DX-36	July 10, 2015	Plaintiff's Response to Defendants' Notice to Produce	N/A	No objection.
DX-37	July 10, 2015	Plaintiff's Responses to Requests for Admissions	N/A	No objection.
DX-38	January 4, 1988	Union Checkoff Authorization	ASR000176	Objection – hearsay, relevance, foundation
DX-39	November 15, 2013	Truck Loader's Inspection Sheet	ASR000188	Objection – hearsay, relevance, foundation,
DX-40	November 15, 2013	Refused Bill of Lading	ASR000189	Objection – hearsay, relevance, foundation
DX-41	November 15, 2013	Vehicle Loading Record Detail	ASR000190	Objection – hearsay, relevance, foundation

Trial Exhibit No	Document Date	Description	Bates Number/ Dep. Exhibit Reference	Plaintiff's Stipulations and Objections
DX-42	October 9, 2013	Truck Loader's Inspection Sheet	ASR000191	Objection – hearsay, relevance, foundation
DX-43	October 9, 2013	Vehicle Loading Record Detail	ASR000192	Objection – hearsay, relevance, foundation
DX-44	September 10, 2013	Truck Loader's Inspection Sheet	ASR000193	Objection – hearsay, relevance, foundation
DX-45	September 10, 2013	Vehicle Loading Record Detail	ASR000194	Objection – hearsay, relevance, foundation
DX-46	September 20, 2013	Return Delivery Form	ASR000195-196	Objection – hearsay, relevance, foundation
DX-47	May 30, 2013	Vehicle Loading Record Detail	ASR000197	Objection – hearsay, relevance, foundation
DX-48	May 31, 2013	Truck Loader's Inspection Sheet	ASR000198	Objection – hearsay, relevance, foundation
DX-49	June 3, 2013	Email exchange between John DeQuatro, Lois Davis, Jeffrey Bogdan regarding incorrect shipment	ASR000199-ASR000202	Objection – foundation, hearsay

Trial Exhibit No	Document Date	Description	Bates Number/ Dep. Exhibit Reference	Plaintiff's Stipulations and Objections
DX-50	October 19, 1990	Job Change Application	ASR000076	No Objection
DX-51	March 26, 1996	Report of Change in Personnel	ASR000155	Objection - Relevance
DX-52	September 2, 1997	Report of Change in Personnel	ASR000156	Objection - Relevance
DX-53	September 22, 1992	Report of Change in Personnel	ASR000159	Objection - Relevance
DX-54	December 10, 1992	Report of Change in Personnel	ASR000160	Objection - Relevance
DX-55	March 18, 1991	Report of Change in Personnel	ASR000161	Objection - Relevance
DX-56	January 21, 1991	Report of Change in Personnel	ASR000162	Objection - Relevance
DX-57	July 20, 1990	Report of Change in Personnel	ASR000165	Objection - Relevance

Trial Exhibit No	Document Date	Description	Bates Number/ Dep. Exhibit Reference	Plaintiff's Stipulations and Objections
DX-58	July 17, 1990	Report of Change in Personnel	ASR000166	Objection - Relevance
DX-59	October 26, 1989	Report of Change in Personnel	ASR000168	Objection - Relevance
DX-60	March 7, 1989	Report of Change in Personnel	ASR000169	Objection - Relevance
DX-61	April 12, 1988	Report of Change in Personnel	ASR000171	Objection - Relevance
DX-62	April 8, 1988	Report of Hiring	ASR000172	Objection - Relevance
DX-63	March 29, 1988	Report of Change in Personnel	ASR000173	Objection – Relevance
DX-64	February 4, 2016	Disciplinary Notice	ASR000225	No Objection
DX-65	February 3, 2016	Emails between M. Olson and C. Vega regarding bathrooms	ASR000226	Objection – foundation, hearsay, authentication

Trial Exhibit No	Document Date	Description	Bates Number/ Dep. Exhibit Reference	Plaintiff's Stipulations and Objections
DX-66	February 24, 2016	Grievance	ASR000228-229	No Objection
DX-67	March 28, 2016	Grievance Denial	ASR000230	No Objection

VIII. STIPULATIONS AND OBJECTIONS TO EXHIBITS

The parties have noted any and all objections and/or stipulations to exhibits in the above schedules.

IX. PLAINTIFF'S WITNESS LIST

1. Plaintiff Claude Lewis
2. Defendant Mehandra Ramphal
3. Deborah Lafaro
4. Robert Jandovitz
5. Dr. Reah Segal Parsons
6. Fred Gaffney
7. Fred Pannicia
8. Adolph McBean
9. Elizabeth Mendonca
10. Luciuos Green
11. Bobsy Monroe
12. Darius Schullere
13. Joseph Fornabio

Plaintiff reserves all rights to call any witness on Defendants' Witness List, and reserves all rights to present witness testimony at trial as permitted under the Federal Rules of Civil Procedure, the Local Civil Rules, and Honorable Claire R. Kelly.

Plaintiff does not intend to offer any deposition testimony as part of his case in chief unless a witness becomes unavailable for trial, or unless the testimony is to be used for purposes of impeaching a witness or refreshing a witness' recollection. The following deposition transcripts may be used for such limited purposes:

1. Deposition Transcripts of Plaintiff Claude Lewis, duly transcribed January 29, 2017 and March 1, 2016;
2. Deposition transcript of Defendant Mehandra Ramphal, duly transcribed October 19, 2016;
3. Deposition transcript of Deborah Lafaro, duly transcribed October 6, 2016;
4. Deposition transcript of Elizabeth Mendonca, duly transcribed April 26, 2016;
5. Deposition transcript of Adolph McBean taken in the matter of Rosanna Mayo-Coleman v. American Sugar Holding, Inc. et. al., Civil Action No.: 14-cv-0079-UA, duly transcribed September 30, 2015; and
6. Deposition transcript of Robert Jandovitz taken in the matter of Rosanna Mayo-Coleman v. American Sugar Holding, Inc. et. al., Civil Action No.: 14-cv-0079-UA, duly transcribed August 17, 2016.

DEFENDANTS' OBJECTIONS TO PLAINTIFF'S WITNESSES

1. Fred Pannicia: Defendants object to the production of Mr. Pannicia as Mr. Pannicia was never identified as an individual with knowledge as to the allegations of this case, never identified by Plaintiff as a fact witness, and never identified as a potential trial witness in Plaintiff's answers to interrogatories.
2. Bob Jandovitz: Defendants object to the production of Mr. Jandovitz as a witness as he was never identified as an individual with knowledge as to the allegations of this case, never identified by Plaintiff as a fact witness, and never identified as a potential trial witness in Plaintiff's answers to interrogatories.
3. Adolph McBean: Defendants object to the production of Mr. McBean as a witness as he never identified as an individual with knowledge as to the allegations of this case, never identified by Plaintiff as a fact witness, and never identified as a potential trial witness in Plaintiff's answers to interrogatories.
4. Defendants object to Plaintiff reserving the right to call Defendants' witnesses. The Federal Rules of Evidence permit a party to offer testimony in its case in chief, despite that testimony being impermissible in the opponent's case in chief. Therefore, just because an witness may be properly offered in Defendants' case, does not equate to that individual being properly offered in Plaintiff's case in chief.

Defendants anticipate making an *in limine* motion regarding the above objections.

DEFENDANTS' OBJECTIONS TO PLAINTIFFS' DEPOSITION TESTIMONY

1. Defendants object to Plaintiff's designation of the deposition transcript of Plaintiff Claude Lewis as hearsay.
2. Defendants object to Plaintiff's designation of Mr. Ramphal, Ms. Troche (Lafaro), and Ms. Mendonca's deposition transcript as Plaintiff has failed to indicate relevant page and line numbers for the deposition readings.
3. Defendants object to the introduction of deposition transcripts of Adolph McBean and Bob Jandovitz from a different action than this litigation, including but not limited to the introduction of deposition testimony from the case captioned Mayo-Coleman v. American Sugar Holding, Inc., et. al, Civil Action No.: 14-cv-0079. Defendants object to the extent

that such deposition testimony is hearsay and because such deposition testimony was never produced in discovery.

Defendants anticipate making an *in limine* motion regarding the above objections.

X. DEFENDANTS' WITNESS LIST

Excepting rebuttal or impeachment, Defendants intend to call the following witnesses with regard to liability and damages:

1. Plaintiff Claude Lewis
2. Mehandra Ramphal
3. Elizabeth Mendonca
4. Debbie Troche
5. Bob Jandovitz
6. Adolph McBean
7. Ray Grossi
8. Bobsie Monroe
9. Sean Norwood
10. Kevin Parnell
11. Bruce Furick
12. Karen L. Dahlman

XI. RELIEF SOUGHT

The Plaintiff seeks statutory costs, attorney's fees, lost wages, and promotional opportunities, front pay, and punitive damages in an amount to be determined at trial. Further, Plaintiff seeks compensatory damages for lost wages and lost overtime wages. Further, Plaintiff seeks non-pecuniary damages for emotional distress and mental anguish. Defendants seek a judgment dismissing Plaintiff's Amended Complaint and all claims set forth therein with prejudice, and all other relief the Court deems just and proper, including reimbursement for cost incurred in defending this action.

Dated: New York, New York
November 7, 2017

Honorable Claire R. Kelly, U.S.D.J.

NESENOFF & MILTENBERG, LLP
Attorneys for Plaintiff

BRESSLER, AMERY & ROSS, P.C
Attorneys for Defendants

/s/ Megan S. Goddard
Megan S. Goddard, Esq.
Gabrielle M. Vinci, Esq.
363 Seventh Avenue, 5th Floor
New York, New York 10001
Tel: (212) 736-4500

/s/ Michael T. Hensley
Michael T. Hensley, Esq.
17 State Street, 34th Floor
New York, New York 10004
Tel: (212) 425-9300

CHARNY & WHEELER

/s/ Nathaniel K. Charny
Charny & Wheeler
9 West Market Street
Rhinebeck, New York 12572
Tel: (845) 876-7500

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SCHEDULE B

Admissible Exhibits Not Objected to in Proposed Joint Pretrial Order

Exhibit No.	Description
JX-1	July 18, 1997 Memorandum from Robert Jandovitz Re: Meeting with Claude Lewis
JX-2	June 29, 2012 Notice of Violation of Rules
JX-3	January 3, 2013 Disciplinary Notice
JX-4	March 6, 2013 Disciplinary Notice
JX-5	October 14, 2013 Disciplinary Notice
JX-7	January 1, 2011 Collective Bargaining Agreement
JX-8	January 24, 2005 Collective Bargaining Agreement
JX-9	ASR Employee Handbook
JX-10	ASR Code of Ethics and Business Conduct (October 1, 2012)
JX-11	ASR Plant Rules
JX-12	March 17, 2013 Grievance
JX-13	March 16, 2013 Grievance
JX-14	January 5, 2016 Disciplinary Notice
JX-15	Resume of Rhea Parsons
JX-16	CV of Karen Dahlman
JX-17	October 18, 2012 Job Change Application
JX-18	April 15, 2013 Employee Status Notice
JX-19	December 10, 2013 Employee Status Notice
JX-20	May 11, 2009 Memorandum from Robert Jandovitz re: Grievance #01-09
JX-21	February 26, 2009 Acknowledgment form for ASR Code of Ethics and Business Conduct
JX-22	February 1, 2013 Acknowledgment form for ASR Code of Ethics and Business Conduct
JX-23	March 3, 2016 Disciplinary Notice
JX-24	March 14, 2013 EEOC Intake Questionnaire
JX-25	Last Chance Agreement
JX-26	February 24, 2016 Grievance
JX-27	January 22, 2014 Charge of Discrimination
JX-28	March 16, 2016 Employee Status Notice
JX-29	November 28, 2011 Employee Status Notice
JX-30	November 18, 2010 Employee Status Notice
JX-31	June 27, 2011 Employee Status Notice
JX-32	December 10, 2013 Employee Status Notice
PX-8	February 7, 2014 Grievance Response
PX-12	IME Report by Dr. Karen Dahlman
PX-24	Defendants' Answer to Plaintiff's Amended Complaint
PX-25	Defendants' Response to Plaintiff's First Set of Document Demands
PX-26	Defendants' Response to Plaintiff's First Set of Interrogatories

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Exhibit No.	Description
DX-1	Complaint, March 27, 2014
DX-2	Amended Complaint, September 30, 2014
DX-30	Medical Records, October 21, 2014–October 30, 2016, 00104–00232, Parson 2
DX-32	July 10, 2015 Plaintiff's Answers to Interrogatories
DX-33	March 14, 2016 Plaintiff's Supplemental Responses to Interrogatories
DX-35	May 5, 2015 Plaintiff's Initial Disclosures
DX-36	July 10, 2015 Plaintiff's Response to Defendants' Notice to Produce
DX-37	July 10, 2015 Plaintiff's Responses to Requests for Admissions
DX-50	October 19, 1990 Job Change Application
DX-64	February 4, 2016 Disciplinary Notice
DX-66	February 24, 2016 Grievance
DX-67	March 28, 2016 Grievance Denial

SCHEDULE C

Admissible Exhibit for Which an Objection Was Withdrawn

Exhibit No.	Description
PX-10	Email from David Arm to Bob Jandovitz, Dec. 3, 2013 AR000223

SCHEDULE D

Admissible Exhibits for Which an Objection Was Overruled

Exhibit No.	Description
PX-6	Plaintiff's Medical Records P00104–232
PX-9	Fax, November 11, 2013 ASR000218
PX-11	Disciplinary Notice, Feb. 4, 2016 ASR000225–226
PX-20	Grievance, Dec. 2, 2016
DX-3	Job Change Application, Feb. 27, 1996 ASR000070, Lewis 4
DX-6	January 17, 1991 Notice of Violation of Rules
DX-11	October 28, 2005 Notice of Violation of Rules
DX-13	Grievance, Feb. 1, 1991 ASR000074, Lewis 12

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Exhibit No.	Description
DX-14	Grievance Denial, Feb. 26, 1991 ASR000073, Lewis 12
DX-15	Grievance, Oct. 23, 1991 ASR000072, Lewis 12
DX-16	Grievance Denial, Nov. 13, 1991 ASR000071, Lewis 12
DX-17	Grievance, Mar. 1, 2003 ASR000123, Lewis 12
DX-18	Grievance Denial, Apr. 7, 2003 ASR000122, Lewis 12
DX-19	Grievance, Mar. 1, 2003 ASR000121, Lewis 12
DX-20	Grievance Denial, Apr. 7, 2003 ASR000120, Lewis 12
DX-21	Grievance Denial Sustained, June 5, 2003 ASR000119, Lewis 12
DX-22	Grievance and Approval, Feb. 24, 2004 ASR000116
DX-23	Grievance Approved, Mar. 4, 2004 ASR000115, 117, Lewis 12
DX-25	Grievance, Aug. 3, 2005 ASR000113, Lewis 12
DX-26	Grievance Denial, Aug. 10, 2005 ASR000112, Lewis 12
DX-27	Grievance, Dec. 5, 2005 ASR000111, Lewis 12
DX-28	Grievance Denial, Feb. 10, 2006 ASR000110, Lewis 12
DX-29	Union appeal of grievance and amendment of decision, Feb. 16, 2006 and Aug. 23, 2006 ASR000109, 108, Lewis 12
DX-38	Union Checkoff Authorization, Jan. 4, 1988 ASR000176
DX-39	Truck Loader's Inspection Sheet, November 15, 2013 ASR000188
DX-40	Refused Bill of Lading, November 15, 2013 ASR000189
DX-41	Vehicle Loading Record Detail, November 15, 2013 ASR000190
DX-42	Truck Loader's Inspection Sheet, October 9, 2013 ASR000191
DX-43	Vehicle Loading Record Detail, October 9, 2013 ASR000192
DX-44	Truck Loader's Inspection Sheet, September 10, 2013 ASR000193

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Exhibit No.	Description
DX-45	Vehicle Loading Record Detail, September 10, 2013 ASR000194
DX-46	Return Delivery Form, September 20, 2013 ASR000195–196
DX-47	Vehicle Loading Record Detail, May 30, 2013 ASR000197
DX-48	Truck Loader's Inspection Sheet, May 31, 2013 ASR000198
DX-49	Email Exchange between John DeQuatro, Lois Davis, Jeffrey Bogdan regarding incorrect shipment, June 3, 2013
DX-51	March 26, 1996 Report of Change in Personnel
DX-52	September 2, 1997 Report of Change in Personnel
DX-53	September 22, 1992 Report of Change in Personnel
DX-54	December 10, 1992 Report of Change in Personnel
DX-55	March 18, 1991 Report of Change in Personnel
DX-56	January 21, 1991 Report of Change in Personnel
DX-57	July 20, 1990 Report of Change in Personnel
DX-58	July 17, 1990 Report of Change in Personnel
DX-59	October 26, 1989 Report of Change in Personnel
DX-60	March 7, 1989 Report of Change in Personnel
DX-61	April 12, 1988 Report of Change in Personnel
DX-62	April 8, 1988 Report of Hiring
DX-63	March 29, 1988 Report of Change in Personnel

SCHEDULE E

Exhibits Inadmissible Unless and Until Plaintiff Can Authenticate

Exhibit No.	Description
PX-1	Grievance, December 22, 2008 Bates # P00001–02
PX-2	Letter from Plaintiff, February 4, 2014 Bates # P00004–05
PX-3	Signed Statement, March 22, 2014 P000037
PX-4	Grievance, April 3, 2015 P00006–08
PX-5	Grievance, January 9, 2016
PX-7	Grievance, July 12, 2016
PX-21	Grievance, Jan. 9, 2016 P00042

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SCHEDULE F

Exhibits Admissible to Prove EEOC Complaint Filed

Exhibit No.	Description
PX-16	Plaintiff's EEOC Consent, Dec. 5, 2013 ASR000217
PX-17	Notice of Charge of Discrimination, Feb. 4, 2014 ASR000213
PX-19	ASR FOIA Request and Response ASR000203-222

SCHEDULE G

Exhibits Marked for Identification Only

Exhibit No.	Description
PX-13	Plaintiff's Declaration, Feb. 20, 2017
PX-14	Gaffney Declaration, Feb. 20, 2017
PX-27	Plaintiff's Answers to Defendants' Interrogatories, July 10, 2015
PX-28	Plaintiff's Supplemental Answers to Defendants' Interrogatories, March 14, 2016
PX-29	Plaintiff's Initial Disclosures, May 5, 2015
PX-30	Plaintiff's Response to Defendants' Notice to Produce, July 10, 2015
PX-31	Plaintiff's Response to Defendants' Requests for Admissions, July 10, 2015
DX-24	Grievance, Oct. 14, 2004 ASR000187, Lewis 12
DX-31	Medical Expert Report of Dr. Karen Dahlman

SCHEDULE H

Inadmissible Exhibits

Exhibit No.	Description
PX-18	Pro Se Complaint, Mar. 27, 2014
PX-23	Plaintiff's Amended Complaint, September 30, 2014
DX-4	July 12, 1988 Notice of Violation of Rules
DX-5	August 18, 1990 Notice of Violation of Rules
DX-7	September 27, 1994 Notice of Violation of Rules
DX-8	August 1, 1997 Notice of Violation of Rules

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Exhibit No.	Description
DX-9	January 13, 1998 Notice of Violation of Rules
DX-10	April 2, 2002 Notice of Violation of Rules
DX-65	February 3, 2016 Email exchange among Plaintiff's supervisors documenting discipline for Plaintiff's poor work performance
DX-68	Disciplinary Letter, August 19, 1997

SCHEDULE I

Withdrawn Exhibits

Exhibit No.	Description
JX-6	Notices of Violation of Rules, August 18, 1990
PX-15	Grievance Submitted by Rosanna Mayo-Coleman. May 4, 2012
PX-22	Grievance, Jan. 9, 2016
PX-32	Affidavit of Fred Paniccia, Nov. 26, 2016
DX-12	December 22, 2008 Grievance
DX-34	Email from Plaintiff's Counsel, March 4, 2016